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Section 415 related to suits by and against corporations and companies, registered and unregistered. He said that, in British India, by Order No. XXX, Rule 1, any two or more partners of a firm or company could sue and be sued in its behalf, and larger powers were also given to a party to compel a firm suing or sued to disclose the names of its partners. He suggested the introduction of similar provisions here.

Sections 456, 462 & 471.—There was at present no section in the Civil Procedure Code authorising a party to apply for arrest and attachment *after* decree and before copy thereof was obtained. Several alienations of properties were made by the judgment-debtor during that period. The Member said that, if Sections 456, 462 and 471 could not be construed to vest the power in the Courts, they might be modified so as to invest the Courts with the power, for being exercised at least when a reasonable case of emergency was made out.

Miscellaneous.—(1) He said that office copies of judgments and decrees should be caused to be taken promptly and copies issued to the parties expeditiously. At present there was inordinate delay and the circulars on the subject were not obeyed.

(2) The practice in British India was for the officers entrusted with warrants for arresting judgment-debtors to take their signatures as soon as they were arrested. The Member suggested the necessity of a similar provision here, in view to ensure the attendance in Court of the judgment-debtor soon after his first arrest.

(3) There was no provision for emergent processes in the Code as in British India. The Member said that provision should be made for issuing them from the Courts on payment by the parties of any extra charges that might be prescribed.

(4) The British Indian Code contained provision in Order XII, Rule 6, for the Courts to give judgments on admissions of fact made by any party at any stage of a suit, without waiting for the determination of any other question between the parties. He urged the necessity for embodying a similar provision in the Travancore Code.

In conclusion, the Member prayed for early action being taken to obviate the difficulties pointed out by him.

Dewan's reply.—The Government recognise that the Civil Procedure Code requires amendment in many particulars. The Member's suggestions are noted. A copy of his memorandum will also be sent to the High Court, who, I am sure, will take note of the suggestions.

34. The necessity for amending the Jenmi and Kudiyan Regulation.

Mr. Thrivikramar Vasudevar (Member, Jenmi, Trivandrum and Padmanabhapuram Divisions) said that the various Jenmi Members represented the hardships caused to the Jenmies on account of the Jenmi and Kudiyan Regulation, and that, in the sixth session of the Assembly, they were told that the matter would be enquired into. Subsequently, the Dewan Peishkars were asked to enquire into the matter, and on their

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reports, a G. O. was issued in Karkadakam 1086, stating that nothing would be done in the matter, as both the Jenmi and the Kudiyan had each his complaints against the other. The Member was of opinion that sufficient enquiry was not made by the Dewan Peishkars, who should have taken evidence both from the Jenmies and the Kudiyans. He therefore requested that a detailed enquiry be ordered by the Government. If that was not immediately practicable, the Member requested that the following sections of the Regulation be amended as follows :—

Section 5, para 2, excluded the non-Malayalee-Brahmin Jenmies from the operation of the Regulation. He said that all proprietors, of whatever caste, who had jenmom rights, should be included under the term 'Jenmi'.

Section 7.—The conditions under which the Kudiyan might be evicted from his lands were unworkable in practice and required modifications favourable to the Jenmies. He said that the section should be amended so as to give powers to the Jenmi to evict the Kudiyan for non-payment of *michavaram* for three years, for refusal to take a renewal within three months after the expiry of 12 years, for any wilful act of waste to the jenmom property, or for breach of any of the conditions of the agreement between them.

Section 17.—The rate per cent of interest per annum on the arrears of *michavaram* in kind should be raised from 18 to 20.

Section 22 (d).—He said that the *pattom* assessed should not be subject to any deduction on account of the interest on the *kanom* money. The restriction in the proviso "that the existing *pattom* should not be disturbed" should also be removed, and in times of renewal, the *pattom* should be capable of being raised.

Section 33.—The summary jurisdiction of the Munsiffs should be raised so as to bring within it all claims the amount or value of which not might exceed Rs. 100, instead of Rs. 30 as at present.

Sections 9, 10, 12, 23 & 44 should be expunged from the Regulation as being superfluous.

Kudi-jenmom lands.—The Member represented that the present practice of changing the tenure and imposing one-fourth of the *pattom* as tax on lands the jenmom rights on which had been sold outright, reduced the market value of the property, and he requested that the same should be abolished altogether.

Kanom lands.—He further requested that the non-taxable trees standing on *kanom* lands should be entirely at the disposal of the Jenmies, and they should have complete freedom to cut and remove any of such trees at any time, after giving a registered notice of their intention to the Kudiyans concerned.

In conclusion, the Member submitted that the proper step towards the removal of the disabilities of the Jenmies

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was the appointment of a commission of enquiry for the purpose by the Government.

Mr. Narayanar Janardanar (Member, Nominated) observed that the Jenmies were in very affluential circumstances in the past, and though they were not forward in education, they could then boast of much wealth. The Royal Proclamation of 1042 gave a rude shock to them for the first time and the Jenmi and Kudiyan Regulation of 1071sealed their fate. It was now forty years since the tenants were gradually cutting the ground from under the feet of the Jenmies and the Jenmies as a class had considerably fallen from their position. It was no exaggeration to say that the majority of them were now poor and struggled hard to live honorably. Their lot was worse than that of the poorest peasant, in that the latter was free to live according to his means, while even the poorest Jenmi, having invested large properties with his tenants, went on borrowing, to live in some style, for fear of losing his prestige. The chief reason why the Jenmies were drifting to that condition was because of the free latitude allowed to the tenants by the Regulation. He then graphically described the sufferings of the Jenmies and cited his own case as an instance in point. No tenant would willingly pay the *michavaram* and other dues, if he could help it, and his sole end and aim was to leave them in arrears and plead limitation. To resort to the Courts for their recovery in every case was hopeless, because in many cases the amounts were so small that much more had to be spent by way of costs of suit. Further, it took at least three years to get a decree in one case, and even after securing it, there were untold difficulties and loss of money in getting it executed. For fear, therefore, of throwing good money after bad, the Jenmies remained quiet in most instances, fully trusting to the good-will of the tenants. The Courts decreed only 6 per cent interest on the amount claimed and not the interest provided by the Regulation ; nor was interest allowed on costs. In fact, wherever they turned, the Jenmies met with obstacles. He said that the Government would form some idea of the Jenmies' difficulties in recovering their dues through the Courts if, for one year, the Sirkar officers were asked to collect the land revenue from each pattadar by suing him in the Courts. He cited the instance of a jenmom property belonging to him near the General Hospital and in the possession of the Sirkar, as Kanomdar, and said that the arrears of *michavaram* on it were due from 1083. He therefore said that it was high time that a commission was appointed to enquire into the present condition of the Jenmies and the causes which led to it, and to report on the measures necessary to ameliorate their condition and he prayed that action might be taken accordingly. But till such a thing was done, it was urgent that some means should be devised to enforce the prompt payment of *michavaram* every year by the tenant to the Jenmi, and for that purpose, he made the following proposal. The tenant should remit the *michavaram* due to the Jenmi by Anchal money order and take a receipt ; but if he did not do so, it should be open to the Jenmi to send a signed acquittance or receipt for the amount due by value payable post to the Kudiyan and thus give the Kudiyan a further opportunity to pay. If the payments were still not made, and such V. P. receipts came to be returned unaccepted by the Kudiyan for a period of three years continuously, then on the ground

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of such default alone, as evidenced by the receipts, it should be declared that the property should revert to the Jenmi. He said that the addition of a sub-section to that effect to Section 17 of Regulation V of 1071 would go a long way to mitigate the sufferings of the Jenmies till a commission was appointed and the Jenmies realised the fruits of their labors.

Mr. Devan Krishnaru (Member, Jenmi, Quilon Division) suggested the following amendments to the Jenmi and Kudiyan Regulation :—

(1) The maximum *pattom* assessable should be raised from one-fourth of the annual yield to one-half, in view of the nominal consideration for which the lands were originally conveyed to the Kudiyans, in most cases, by the Jenmies.

(2) The Jenmies should have the liberty to cut and remove the trees spontaneously growing on their *kanom* lands.

(3) The rate per cent of interest per annum on arrears of *michavaram* in kind should be raised from 18 to 20.

(4) The summary jurisdiction of the Munsiffs and Judges should be raised so as to bring within it all claims the amount or value of which did not exceed Rs. 100 and Rs. 200 respectively, instead of Rs. 30 and Rs. 100 respectively as at present.

(5) The practice of changing the tenure of jenmom lands into *kudi-jenmom* on the outright alienation of jenmom rights and of levying increased tax on them, should be stopped.

(6) There was no provision in the Regulation to establish the rights of the Jenmies in accordance with the extent of *kanom* holdings, if they were wet lands, as recited in the *kanom* deed. Owing to the system of land measurement adopted at the Settlement, there was much difference in the area of the holdings noticeable in many cases. Further, deficiency in the extent very often happened owing to the neglect or, what was more common, fraudulent acts of the Kudiyan. In several cases, the Courts had reduced the rights of the Jenmies in proportion to the reduction in the area. The law should be modified so as to declare that the Courts should not go behind the recitals in the *kanom* deeds in respect of such rights, especially because the lands were all along in the possession of the Kudiyan.

Mr. Narayanar Kadambar Namburipad (Member, Jenmi, Kottayam Division) said that the Jenmies should be allowed the liberty of redeeming the lands assigned on *kanapattom* to their tenants whenever the latter, of their own accord, converted garden lands into wet lands and *vice versa*.

He also requested that the *kanom* lands should be exempted from the application of the law of limitation in the same way as trust properties were treated. He observed that some such provision would alone prevent the persistent tendency of the Kudiyans to run into limitation and dispossess the Jenmies.

Mr. K. Krishna Pillai (Member, Changanacherry taluk) observed that the object of the Jenmi and Kudiyan

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Regulation was, as stated in the Preamble, "to carry out the intention of the Royal Proclamation of 1042 and to define clearly the relative rights of the Jenmies and the Kudiyans", but the Regulation did not produce the desired effect. He, therefore, suggested modifications to the following sections:—

Section 6 required the written consent of the Jenmies to alienations by the Kudiyans of portions of their lands so as to affect the liability of the entire holdings for the Jenmies' dues. The section was being made applicable also to cases of partitions in a family. It was hard that the Jenmi should have to be consulted and his permission taken when the family property was to be partitioned. Further, even after the partition, the Jenmi recovered his dues from any one of the sharers as he liked. The inconvenience to the Kudiyan was very great. He said that the section should be suitably modified.

Section 8 related to the payment of compensation by the Jenmi to the Kudiyan for the latter's improvements. The expression "wild trees of spontaneous growth" were not defined specifically in the section. Also, a Kudiyan was permitted [17 T. L. R. 117] to cut certain trees standing on jenmom lands for *domestic* purposes. What those domestic purposes and species of trees were, were not specified. The indefiniteness had resulted in the want of uniformity in the decisions of the Courts. He said that the section should be made clear.

Section 11 declared that the renewals of *kanoms* should be effected once in every twelve years. The Member said that the period should be increased or it should be laid down that the renewals be effected only after twelve crops had been raised on the lands.

The Member then enumerated a number of rights of the Jenmies fixed by custom and said that the Jenmies of different places established different customs and that it was the tendency in all the Jenmies to create new customs by some means or other, to increase their rights. He therefore requested that the rights based on custom should be clearly defined.

Section 14 allowed the reduction of interest on the *kanom* money and the increase of *pattom* originally agreed to by the parties, in certain cases, resulting in increase in the *michavaram*. He suggested that Clause (*b*) of Sub-section (1) of Section 14 might be repealed.

Section 22 (*b*) permitted the Jenmi to fix the *pattom* equal to the *payattupattom* current in that Proverthy. That meant clearly that *pandarapattom* and jenmom lands should be assessed in the same way. He therefore requested that the *pattom* should be that fixed by the Government on neighbouring lands and the *michavaram* should be calculated on seven-eighths of it, *i. e.*, the full *pattom* minus the one-eighth due to the Government as tax. He suggested that the section be modified accordingly.

He then complained that the parah measure of the Jenmi was not a uniform standard measure and the Kudiyans lost heavily on that account. He requested that the *michavaram*

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in kind might be made payable in cash at the rate of 11 chs. per parah.

If one Kudiyan enjoyed several lands under the same Jenmi under more than one deed, the Jenmi usually compelled him to execute separate documents at the time of renewal. It should be ruled that one document ought to suffice in such cases.

In conclusion, the Member said that, though he differed entirely from the arguments of the Jenmi Members who spoke on the subject, he was completely in accord with them in their request for appointing a commission of enquiry, and he requested that the prayer might be granted in the interests alike of the Jenmies and of the Kudiyans.

Dewan's reply.—Noted.

The Assembly adjourned at 5–30 P. M.

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